

**ZONING BOARD OF APPEALS**

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ZBA 2010-84

Petition of William Giezentanner & Elissa Landre
93 Russell Road

Pursuant to due notice, the Special Permit Granting authority held a Public Hearing on Thursday, November 4, 2010 on the petition of WILLIAM GIEZENTANNER & ELISSA LANDRE requesting a Special Permit pursuant to the provisions of Section XXIID and Section XXV of the Zoning Bylaw for demolition of seven existing retaining walls and construction of three retaining walls, one of which will be 7.35 feet at its highest point from finished grade and within ten feet of the left and right side property lines, on a 5,407 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 93 RUSSELL ROAD.

On October 18, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were William Giezentanner and Elissa Landre (the "Petitioner"). Mr. Giezentanner said that they had previously been granted a Special Permit and a Variance to build a structure at 93 Russell Road. He said that at the time he was unaware that he needed to get a Special Permit for the retaining walls. He said that one retaining wall will be over four feet high and crosses the site from one property line to the other. He said that the existing railroad tie retaining walls are rotting and are leaking toxic chemicals into the pond.

Mr. Giezentanner said that they submitted materials to the Zoning Board of Appeals (ZBA) for wall construction called "Stone Masters." He said that the contractor told them that they cannot build that wall if the weather is freezing. He said that they will probably build a Versa-Lok wall. He displayed a photograph of the two types of walls.

Mr. Giezentanner said that they met with the Design Review Board (DRB) and had received unanimous approval of the wall design.

The Board asked about the DRB comment about the wall being appropriately screened. Mr. Giezentanner said that there is a Planting Plan that shows both shrubs and trees. He said that there is a fair distance between the water and the wall. He said that the contractor said that he will put eyebolts into the wall as he is building it so that they can plant Virginia Creeper on the walls.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 93 Russell Road, on a 5,407 square foot lot in a district in which the minimum lot size is 10,000 square feet, with a minimum side yard setback of 4 feet, and 37.5 feet of frontage.

The Petitioner is requesting a Special Permit for demolition of seven existing retaining walls and construction of three retaining walls, one of which will be 7.35 feet at its highest point from finished grade and within ten feet of the left and right side property lines.

Plot Plans dated 2/22/10 & 10/13/10, stamped by stamped by Dana J. Standley, Professional Land Surveyor, Landscape Plans L 1.0 & L1.1, dated 8/31/10, prepared by Ives Architects, and photographs were submitted.

On November 2, 2010, the Planning Board reviewed the petition and recommended that the petition be granted.

On October 12, 2010, the Wetlands Protection Committee issued an Amended Order of Conditions (MA DEP# 324-623).

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that demolition of seven existing retaining walls and construction of three retaining walls, one of which will be 7.35 feet at its highest point from finished grade and within ten feet of the left and right side property lines is otherwise in compliance with Section XXIID of the Zoning Bylaw, that the retaining walls will not adversely impact adjacent property or the public, and that the proposed retaining walls are the minimum structures necessary to allow the subject property to be reasonably utilized.

Therefore, a Special Permit is granted for demolition of seven existing retaining walls and construction of three retaining walls, one of which will be 7.35 feet at its highest point from finished grade and within ten feet of the left and right side property lines, in accordance with the submitted plot plan and landscape drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time-stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

David L Grissino

cc: Planning Board
Inspector of Buildings
lrm